

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
CAF Phase II Census Block Challenge	)	WC Docket No. 14-93

**PETITION FOR WAIVER**

Pursuant to section 1.3 of the Commission’s rules,<sup>1/</sup> Cablevision Systems Corporation (“Cablevision”) hereby requests limited waiver of the requirement established by the Wireline Competition Bureau that to successfully demonstrate that a census block is currently served by Cablevision with broadband and voice service for purposes of the Connect America Fund (“CAF”) Phase II Challenge Process Cablevision must demonstrate that it either currently has, or previously had, customers in that census block.<sup>2/</sup> Cablevision seeks the requested waiver only with respect to a single census block in Bronx, New York, numbered 360050019003007 in the records of the United States Bureau of the Census.

This census block – literally only a single city block with a single building that is the sole service location in the block – is adjacent to similar blocks where Cablevision has, or has had, customers, and is a location to which Cablevision would at any time be pleased to provide broadband and voice service upon request from the current commercial tenant. The public interest is not well served by identifying this census block as unserved by Cablevision simply because no tenant has ever before requested service from Cablevision despite the fact that service from Cablevision has consistently been available had any such request been made.

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<sup>1/</sup> 47 C.F.R. § 1.3.

<sup>2/</sup> *Wireline Competition Bureau Provides Guidance Regarding Phase II Challenge Process*, WC Docket No. 10-90, Public Notice, DA 14-864, ¶ 9 (WCB, June 20, 2014) (“*Bureau Guidance Notice*”).

**I. The Commission Has Established Procedures to Ensure that CAF Support Is Not Used to “Subsidize Competition Where an Unsubsidized Competitor Is Providing Service.”**

In creating the Connect America Fund as part of its Universal Service Fund transformation order, the Commission established that CAF support “should be used to further the goal of universal voice and broadband, and not to subsidize competition in areas where an unsubsidized competitor is providing service.”<sup>3/</sup> The Commission therefore held that “all [CAF-supported] broadband buildout obligations for fixed broadband are conditioned on not spending the funds to serve customers in areas already served by an ‘unsubsidized competitor.’”<sup>4/</sup>

To ensure that funds allocated for CAF Phase II are not used to support CAF-subsidized overbuilding in census blocks already served by unsubsidized competitors, the Commission established a challenge process that allows census blocks tentatively listed as eligible for CAF Phase II support to be identified as in fact already served by an unsubsidized competitor and removing those blocks from the list of CAF-eligible blocks.<sup>5/</sup> Implementing the Commission’s direction, the Bureau issued a Public Notice providing guidance on operation of the challenge process, determining, among other things, that for an unsubsidized provider to identify a census block as “served” by it, the provider must: (1) “actually be offering voice and broadband service in the census block”; (2) “have voice and broadband-capable physical assets . . . in or adjacent to the census block”; and (3) “already have customers in that census block, or previously had customers in that census block.”<sup>6/</sup>

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<sup>3/</sup> *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, n. 238 (2011) (“*USF/ICC Transformation Order*”)

<sup>4/</sup> *Id.* ¶ 103.

<sup>5/</sup> See *Connect America Fund*, Order, 28 FCC Rcd 7211 (2013); *Bureau Guidance Notice*.

<sup>6/</sup> *Bureau Guidance Notice* ¶ 9.

## **II. The Particular Facts of Cablevision’s Service to this Census Block Make Waiver Appropriate.**

The Commission has explained that it may appropriately “exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.”<sup>7/</sup>

The particular facts in this instance present just such a case. Cablevision is able to amply demonstrate that it meets the first two criteria established by the Bureau for identifying a census block as “served,” but because of the unique characteristics of the census block Cablevision is unable to meet the third criteria – that it has a current or former customer in the block – despite the fact that Cablevision clearly serves the area. The public interest would best be served by waiver of that third requirement in this single case.

The census block in question is a single city block in Bronx, New York, with a single, industrial-style building taking up the entirety of the block.<sup>8/</sup> The Commission’s list of tentatively-eligible census blocks acknowledges that there is a single service location in the block.<sup>9/</sup> Cablevision is able to demonstrate that it offers service to the census block,<sup>10/</sup> and that it has voice and broadband-capable physical assets adjacent to the census block.<sup>11/</sup> However, because Cablevision has not, over the years, been able to convince the business at the single service location in the census block to order Cablevision service, Cablevision is unable to show that it already has, or previously had a customer at that location.

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<sup>7/</sup> *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Boston Renaissance School Boston, Massachusetts*, Order and Order on Reconsideration, 29 FCC Rcd 1929, n.5 (2014) (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

<sup>8/</sup> See Exhibit A, containing a Census Bureau map locating the census block and a Google map giving an aerial view that shows the building.

<sup>9/</sup> See *Wireline Competition Bureau Commences Connect America Phase II Challenge Process*, Public Notice, DA 14-942 (WCB, June 30, 2014) (providing a web link to “a list of census blocks that have been deemed initially eligible for Phase II support”).

<sup>10/</sup> See Exhibit B, containing a screen shot of a Cablevision webpage offering service at an address in the census block, and a screen shot of a Census Bureau web tool identifying the street address as being associated with that census block.

<sup>11/</sup> See Exhibit C, containing redacted copies of bills for Cablevision customers in an adjacent census block.

Cablevision recognizes that lack of even one current or former customer in a census block may make sense as an indicator of lack of service when considering a well-populated residential area where there are many possible customers for a broadband and voice service provider to attract. The standard is set impossibly high, however, if to prove that it should not be subject to subsidized overbuilding by a price cap incumbent an unsubsidized competitor must somehow attract away from the incumbent the sole customer at the single service location in a census block.

### **CONCLUSION**

The Commission has recognized that the public interest is not served by wasteful use of CAF funds to support provision of broadband and voice services in a census block already served by an unsubsidized competitor. The particular circumstances of this single census block in Bronx, New York demonstrate that the census block is served by Cablevision, despite the fact that the company has never been able to convince the single customer there to sign up for its service. The Commission should therefore grant the requested waiver of the Bureau's third condition for demonstrating that a census block is served for purposes of the CAF Phase II challenge process and declare that the identified census block is not eligible for support under the CAF Phase II program.

Respectfully Submitted,



Ernest C. Cooper  
Counsel for Cablevision Systems Corporation

August 14, 2014

## **CERTIFICATE OF SERVICE**

I, Ernest C. Cooper, hereby certify that on this 14th day of August 2014, the attached Petition for Waiver and supporting Exhibits were served by First Class mail on the following as indicated:

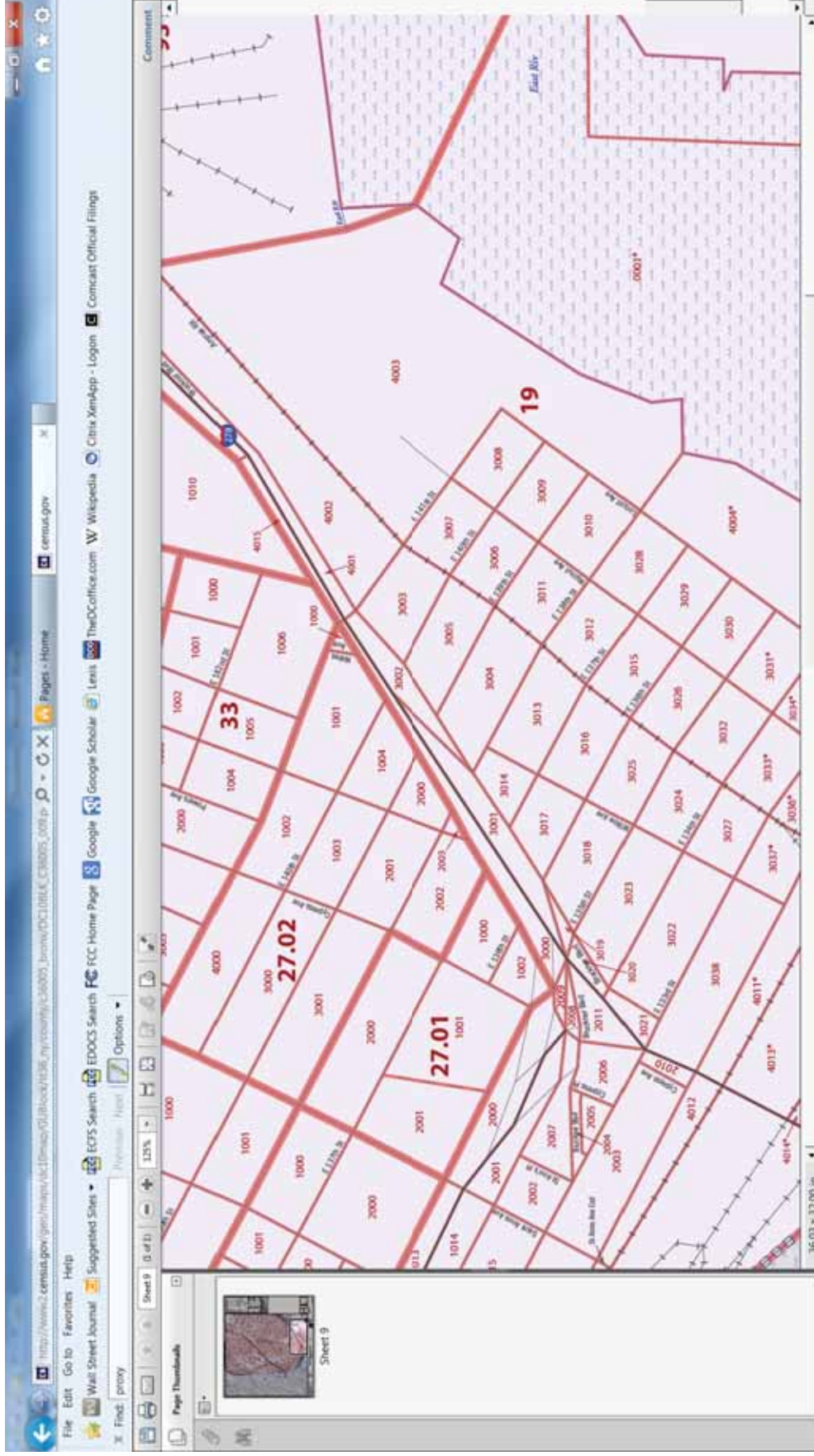
Verizon  
Federal Regulatory Affairs  
1300 I Street NW  
Suite 400 West  
Washington, DC 20005

  
Ernest C. Cooper

## **EXHIBIT A**

Census Bureau Map Locating Census Block 360050019003007

Google Map of the Area of the Census Block



[http://www2.census.gov/geo/maps/dc10map/GUBlock/st36\\_ny/county/c36005\\_bronx/DC10BLK\\_C36005\\_009.pdf](http://www2.census.gov/geo/maps/dc10map/GUBlock/st36_ny/county/c36005_bronx/DC10BLK_C36005_009.pdf)



To see all the details that are visible on the screen, use the "Print" link next to the map.




## **EXHIBIT B**


Cablevision Webpage Showing Service Available at Address in Census Block


Census Bureau Web Tool Identifying Address as Belonging in Census Block

Service available in Census Block 360050019003007.



[Online Ordering](#)  
I want to exit this order flow

 [Account Center](#)

 [Help & Support](#)

[En Español](#)  
[Optimum.net](#)

**Optimum Products & Services**

### Services Available

Please verify that the address found in our system is a match for the address that you provided:

Provided Address:	Address Match:
855 140th st	855 E 140TH ST
ZIP Code: 10454	BRONX , NY 10454-1931

[Change](#)


If this is the address where services will be installed, click Continue to proceed.


If the address is not a match, please click the Change link above to go back and provide additional information or try a different address.

[I'm just browsing.](#) Show me all services available at this address.


[Continue](#)

**WANT TO TALK?**

[Talk now](#)  
We'll call you



Call us at  
1-866-218-3259

[Live chat](#)  
Chat for help

Search Customer Support

GO

loading  
[X Close](#)

File Edit View Favorites Tools Help

http://theindiv2.census.gov/... Wall Street Journal ECFS Search EDOCS Search FCC Home Page Google Scholar Google ThePCOffice.com W/ Wikipedia

Law360 Privacy Lawsuit F...

Your Selections

Your Selections is empty

Search using the options below:

Topics

Geographies

Race and Ethnic Groups

Industry Codes

EEO Occupation Codes

Enter a street address, city and state, or a street address and ZIP code. Click 'Go'.

NOTE: Address search will use the latest available address data beginning with 2013 and working backwards, based on the contents of Your Selections.

street address 855 E 140th Street city Bronx state New York ZIP 000

Geographies containing 855 E 140th St. BRONX, NY, 10454:

Select geographies to add to Your Selections

Geography Results:

Geography Name	Geography Type	Geography Code
New York	State	040
Brook County, New York	County	050
Bronx Borough, Bronx County, New York	County Subdivision	050
Block 3007, Block Group 3, Census Tract 18, Bronx County, New York	Block	100
Census Tract 18, Bronx County, New York	Census Tract	140
Block Group 3, Census Tract 18, Bronx County, New York	Block Group within Census Tract	150
New York City, New York	Place within State	160
New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area	MetroArea Statistical Area	310
New York-White Plains-Wayne, NY-NJ Metro Division, New York-Northern New Jersey-Long Island, NY-NJ-PA Metro Area	Metro Division within Metro Statistical Area	314
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA	MSA/CMSA	300
New York, NY MSA, New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA	PUA within CMSA	305
New York-Albany, NY-NJ-CT Urbanized Area (2010)	Urban Area	400
Congressional District 16 (111th Congress), New York	Congressional District	500
Congressional District 15 (113th Congress), New York	Congressional District	500
State Senate District 28 (2010), New York	State Legislative District (Upper)	610
Assembly District 84 (2010), New York	State Legislative District (Lower)	620
Voting District 840023, Bronx County, New York	Voting District/Remainder	700

## **EXHIBIT C**

Redacted Cablevision Bills for Service provided in Adjacent Census Block



A service of Cablevision

1111 STEWART AVENUE  
BETHPAGE NY 11714-3581

CHANGE SERVICE REQUESTED

#BWNHGYM  
#PGHCGFBHFDAPA9#LOCUST AV STE 1  
BRONX NY 10454-

## Bill Payment

## Service for

LOCUST AV STE 1  
BRONX NY 10454

## Account Number

## Due Date

## Amount Due

07/30/14

TURN OVER FOR PAYMENT

Page 1 of 2

The Tri-State leader in high school sports  
on-air and online.Watch full game coverage on **Channel 614** and **MSGVarsity.com**

## Account Summary

Account Number	Service for
	LOCUST AV
	BRONX NY 10454
Billing Period	07/16/14-08/15/14
Includes Payments Received By	07/10/14
Last Bill Balance	
Payments	
Remaining Balance - Due Immediately	
Current Charges - Due By 07/30/14	
Total Amount Due	
TOTAL MONTHLY SAVINGS:	

## Account Detail

<b>TV</b>		
07/16 -08/15	Optimum Value	
	Includes Broadcast Basic	
	**Special Optimum Promotion**	
07/16 -08/15	Optimum enEspañol	
07/16 -08/15	2 Cable Box(es)	
	(At \$6.71 each and remote(s) at \$0.24 each)	
07/16 -08/15	Additional Outlet	
	Premium Service Fee	
07/16 -08/15	Surcharge	
	Sports Programming	
	<b>Total TV</b>	
<b>Internet</b>		
07/16 -08/15	Optimum Online	
	(Incl FREE unlimited access to Optimum WiFi)	
	**Special Optimum Promotion**	
	<b>Total Internet</b>	
<b>Other Activity</b>		
07/15	Late Fee	
	<b>Total Other Activity</b>	
<b>Tax/Fees/Other Charges</b>		
07/16 -08/15	TV Taxes and Fees	
	<b>Total Tax/Fees/Other Charges</b>	
	<b>Subtotal of Current Charges</b>	
	Remaining Balance	
	Current Charges	
	<b>Total Amount Due</b>	

## Customer Service



## Online Products &amp; Support

Online bill pay, [www.optimum.net/paybill](http://www.optimum.net/paybill)  
 Channel line up, [www.optimum.net/lineups](http://www.optimum.net/lineups)  
 Live chat, [www.optimum.net/livechat](http://www.optimum.net/livechat)  
 For help, [www.twitter.com/optimumhelp](http://www.twitter.com/optimumhelp)  
 Follow us, [www.twitter.com/optimum](http://www.twitter.com/optimum)  
 Like us, [www.facebook.com/optimum](http://www.facebook.com/optimum)



## Important Phone Numbers

1-718-617-3500  
 Service Theft Hotline 1-800-291-8564



## Written Correspondence

Optimum  
 6 Corporate Center Drive, Melville, NY 11747



## Moving?

Let us make it easy. Visit [www.optimum.com/moving](http://www.optimum.com/moving)  
 or call us for special offers for movers.

## Optimum News &amp; Information

**YOUR ACCOUNT IS PAST DUE AND WILL BE SCHEDULED FOR DISCONNECTION IMMEDIATELY.**

All Cablevision equipment (Cable Boxes/Remotes/Smart Cards/Modems/Voice Enabled Modems) must be returned upon disconnection or your account may be charged up to **\$548.65** for each set of unreturned DVR equipment or up to **\$323.65** for each set of unreturned digital cable equipment (Cable Box/Remote/Smart Card), \$50 for each Modem and \$100 for each Voice Enabled Modem.

Starting August 30, BTN, the network that covers Big Ten sports and events for Big Ten fans, will be included in Optimum Preferred, Optimum Silver and iO Package. Watch it on channels 413 and 720.

Enjoy encore performances of Telemundo's most popular novelas on Optimum TV's newest channel, ExitosTV. It's available to all customers with Broadcast basic and above on channel 1048.

Optimum TV channel 1049 is the home of Mexicanal. Available to all customers with Optimum en español, Mexicanal features news, entertainment and sports programming from Mexico.

Hear tomorrow's next big names in alternative music while they're still ruling the underground. Music Choice University (MCU), channel 853, becomes MC Indie, starting August 5. The new channel will feature artists like Arctic Monkeys, Arcade Fire, Cloud Nothings, HAIM, St. Vincent, and Vampire Weekend.

Your creating-tasting-designing-loving-life-network. Bio changes to FYI, starting July 8. Customers with Optimum Preferred or iO Package and above can watch it on channels 160 and 781.

optimum.net



facebook.com/optimum



twitter.com/optimum



A service of Cablevision

1111 STEWART AVENUE  
BETHPAGE NY 11714-3581

CHANGE SERVICE REQUESTED

#BWNHGYM  
#PGHCGFBHFDBPA7#LOCUST AV STE 2  
BRONX NY 10454-

## Bill Payment

## Service for

LOCUST AV STE 2  
BRONX NY 10454

## Account Number

Due Date

Amount Due

08/15/14

TURN OVER FOR PAYMENT

Page 1 of 4

Take charge of your TV viewing with  
Parental Controls from Optimum.Learn more at [optimum.net/parentalcontrol](http://optimum.net/parentalcontrol).

## Account Summary

Account Number	Service for
	LOCUST AV BRONX NY 10454
Billing Period	08/01/14-08/31/14
Includes Payments Received By	07/25/14
Last Bill Balance	
Payments - Thank You!	
Remaining Balance - Due Immediately	
Current Charges - Due By 08/15/14	
Total Amount Due	
TOTAL MONTHLY SAVINGS:	

## Account Detail

<b>Payments</b>	
07/24	Payment-Thank You
	<b>Total Payments</b>
<b>TV</b>	
07/25	Restore Svc Fee
08/01 - 08/31	Optimum Value with Optimum en Espanol Includes Broadcast Basic **Special Optimum Promotion**
08/01 - 08/31	Starz & Encore with On Demand **Special Optimum Promotion**
08/01 - 08/31	Showtime with On Demand **Special Optimum Promotion**
08/01 - 08/31	3 Cable Box(es) (At \$6.71 each and remote(s) at \$0.24 each)
08/01 - 08/31	Additional Outlet Premium Service Fee
08/01 - 08/31	Surcharge Sports Programming
	<b>Total TV</b>
<b>Phone</b>	
07/25	Restore Svc Fee
08/01 - 08/31	Optimum Voice (Includes over 20 features, & certain fees) **Special Optimum Promotion**
	<b>Total Phone</b>
<b>Internet</b>	
07/25	Restore Svc Fee
08/01 - 08/31	Optimum Online (Incl FREE unlimited access to Optimum WiFi) **Special Optimum Promotion**
	<b>Total Internet</b>
<b>Tax/Fees/Other Charges</b>	
08/01 - 08/31	TV Taxes and Fees
08/01 - 08/31	NY Excise Taxes
08/01 - 08/31	Phone Sales Tax
08/01 - 08/31	E-911 Fee

Continued on page 3...

## Customer Service

- Online Products & Support**  
Online bill pay, [www.optimum.net/paybill](http://www.optimum.net/paybill)  
Channel line up, [www.optimum.net/lineups](http://www.optimum.net/lineups)  
Live chat, [www.optimum.net/livechat](http://www.optimum.net/livechat)  
For help, [www.twitter.com/optimumhelp](http://www.twitter.com/optimumhelp)  
Follow us, [www.twitter.com/optimum](http://www.twitter.com/optimum)  
Like us, [www.facebook.com/optimum](http://www.facebook.com/optimum)
- Important Phone Numbers**  
1-718-617-3500  
Service Theft Hotline 1-800-291-8564
- Written Correspondence**  
Optimum  
6 Corporate Center Drive, Melville, NY 11747
- Moving?**  
Let us make it easy. Visit [www.optimum.com/moving](http://www.optimum.com/moving)  
or call us for special offers for movers.

## Optimum News &amp; Information

**Just a reminder, we have not received your payment.** If you have already paid your bill, kindly disregard this notice. If not, please remit full payment immediately to continue receiving cable service and to avoid unnecessary fees. Please note that all equipment received at installation is the property of Cablevision and must be returned if service is disconnected.

Starting August 30, BTN, the network that covers Big Ten sports and events for Big Ten fans, will be included in Optimum Preferred, Optimum Silver and iO Package. Watch it on channels 413 and 720.

On July 1, Puerto Rico Network, channel 1027, unexpectedly discontinued operations in the United States and is no longer available in the Optimum en espanol package.

On July 1, MKTV, channel 1152, unexpectedly discontinued operations in the United States and is no longer available in the Optimum Korean package.

Under New York State law, if you downgrade or disconnect your cable service within 30 days of this notice as a result of the changes described in this notice, no charge associated with the downgrade or disconnection will be applied to your account. You will also be entitled to a refund of any pre-paid service charges, or connection, upgrade or other one-time charges you may have incurred in connection with your service during the six months prior to this change.

Enjoy encore performances of Telemundo's most popular novelas on Optimum TV's newest channel, ExitosTV. It's available to all customers with Broadcast basic and above on channel 1048.

Optimum TV channel 1049 is the home of Mexicanal. Available to all customers with Optimum en espanol, Mexicanal features news, entertainment and sports programming from Mexico.

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